

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE THE APPLICATION OF

KENNETH POLSON,

Petitioner,

and

MEGAN POLSON,

Respondent.

Case No. 08-cv-564-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on respondent Megan Polson's motion to reconsider the Court's September 5, 2008 order (Doc. 45). The Court construes the motion as pursuant to Federal Rule of Civil Procedure 59(e) since it is a substantive motion for reconsideration filed within ten days of entry of judgment. *See Mares v. Busby*, 34 F.3d 533, 535 (7th Cir. 1994); *United States v. Deutsch*, 981 F.2d 299, 301 (7th Cir. 1992).

Under Rule 59(e), a court has the opportunity to consider newly discovered material evidence or intervening changes in the controlling law or to correct its own manifest errors of law or fact to avoid unnecessary appellate procedures. *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996); *see Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir. 2006); *Divane v. Krull Elec. Co.*, 194 F.3d 845, 848 (7th Cir. 1999). It "does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to introduce new evidence or advance arguments that could and should have been presented to the district court prior to the judgment." *Moro*, 91 F.3d at 876. Rule 59(e) relief is only available if the movant clearly establishes one of the foregoing grounds for relief. *Harrington*, 433 F.3d at 546 (citing *Romo v. Gulf Stream Coach, Inc.*, 250 F.3d 1119, 1122 n. 3 (7th Cir. 2001)).

Megan Polson's motion simply rehashes the arguments regarding credibility of witnesses she made at the September 5, 2008, hearing. Reconsideration is not warranted based on those arguments. For the reasons stated in the Court's September 11, 2008, written order fleshing out its September 5, 2008, rulings, the Court again rejects Megan Polson's arguments and **DENIES** her motion to reconsider (Doc. 45).

IT IS SO ORDERED.

DATED: September 18, 2008

s/ J. Phil Gilbert

**J. PHIL GILBERT
DISTRICT JUDGE**